

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

[19] GABRIEL LUGO-MALDONADO,

Defendant.

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CRIMINAL NO. 10-164(DRD)

**AMENDED ORDER APPROVING MAGISTRATE-JUDGE'S  
REPORT AND RECOMMENDATION RE: RULE 11 PROCEEDINGS**

The Court has evaluated the Magistrate-Judge's Report and Recommendation of the Rule 11 proceedings regarding defendant GABRIEL LUGO-MALDONADO is contained in the Report and Recommendation dated December 27, 2010, (Docket No. 270).

The principal consideration is whether that plea was knowingly, voluntary and intelligently made within the terms of Rule 11, United States v. Isom, 85 F. 3d 831, 835-837 (1<sup>st</sup> Cir. 1996). In order to ascertain whether defendant made a knowingly, voluntary and intelligent plea, the Court of Appeals of the First Circuit has identified three core concerns: absence of coercion, defendant's understanding of the charges and the defendant's knowledge of the consequences of the guilty plea. United States v. Gray, 63 F. 3d 60-61, (1<sup>st</sup> Cir. 1995), United States v. Cotal Crespo, 47 F. 3d 1, 4 (1<sup>st</sup> Cir.) cert. denied 516 U.S. 827, 116 S. Ct. 94 (1995).

The Court in examining the three core concerns must "review the totality of the circumstances surrounding the Rule 11 hearing, rather than apply a 'talismatic test'," United States v. Cotal Crespo, 47 F. 3d at 4-5.

The Court having examined the Report and Recommendation of the Magistrate Judge finds that the plea was knowingly, voluntary and intelligent as understood in the

terms of Rule 11. The plea of GABRIEL LUGO-MALDONADO is accepted and the defendant is adjudged guilty as to Count One of the indictment.

**IT IS SO ORDERED.**

At San Juan, Puerto Rico, this 20<sup>th</sup> day January 2011.

**s/ Daniel R. Domínguez  
DANIEL R. DOMINGUEZ  
U.S. DISTRICT JUDGE**